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Paper No. 6

MATT RAINY
LAW OFFICES OF MATT RAINY
1241 GRIZZLY PEAK BLVD.
BERKELEY CA 94708

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In re Application of	:	OFFICE OF PETITIONS
Osher et al.	:	
Application No. 10/039,748	:	DECISION GRANTING
Filed: December 18, 2001	:	PETITION
Attorney Docket No. 03.002	:	

This is a decision on the petition filed March 1, 2002, to accord the above-identified application a filing date of December 18, 2001.

On December 18, 2001, the application was filed.

On February 6, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on December 18, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings (8 Sheets)" on December 18, 2001.¹ Petitioner has also submitted a copy of the missing documentation- 8 pages of drawings.

Upon review of the record, the drawings, deposited on December 18, 2001, have not been located. However, the evidence is convincing that the application papers deposited on December 18, 2001, included 8 pages of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of December 18, 2001.

In view of the above, the petition is **granted**. The copy of the 8 pages submitted with the petition will be used for examination purposes.

The petition fee of \$130 has been scheduled to be refunded.

The Notice mailed February 6, 2002, was sent in error and is hereby vacated.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 18, 2001, using the application papers filed on December 18, 2001, and the copy of the 8 pages of drawings filed on March 1, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy